



General Assembly

January Session, 2005

Raised Bill No. 1149

LCO No. 3420

03420_____ENV

Referred to Committee on Environment

Introduced by:
(ENV)

AN ACT CONCERNING MINOR REVISIONS TO ENVIRONMENTAL PROTECTION PROVISIONS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (g) of section 22a-178 of the general statutes is
2 repealed and the following is substituted in lieu thereof (*Effective from*
3 *passage*):

4 (g) When an order issued by the commissioner to any person
5 pursuant to this chapter becomes final, except for an order to create or
6 use emission reduction credits, the [respondent to such order shall file]
7 commissioner shall cause a certified copy or notice of the final order to
8 be filed on the land records in the town where the subject property is
9 located, and such certified copy or notice shall constitute a notice to the
10 owner's heirs, successors and assigns. [Notwithstanding the provisions
11 of this subsection, where the respondent to a final order does not own
12 the subject property, the commissioner shall record notice of such
13 order on the land records in the town where the subject property is
14 located.] When the order has been fully complied with or revoked, the
15 commissioner shall issue a [certificate] notice showing such
16 compliance or revocation, which [certificate the recipient of such

17 certificate shall record,] notice the commissioner shall cause to be
 18 recorded on the land records in the town wherein the order was
 19 previously recorded. [Notwithstanding the provisions of this
 20 subsection, where the recipient of such certificate does not own the
 21 subject property, the commissioner shall record such certificate on the
 22 land records in the town where the subject property is located. A
 23 person filing a notice, a final order or a certificate pursuant to this
 24 subsection shall submit to the commissioner a certified copy of the
 25 filing indicating the volume and page number upon which the notice,
 26 final order or certificate is filed.]

27 Sec. 2. Subdivision (3) of subsection (k) of section 22a-174 of the
 28 general statutes is repealed and the following is substituted in lieu
 29 thereof (*Effective October 1, 2005*):

30 (3) Any general permit under this subsection shall be issued for a
 31 fixed term. A general permit covering an activity regulated under the
 32 federal Clean Air Act shall be issued for a term of no more than five
 33 years. A general permit covering an activity regulated under the
 34 federal Clean Air Act shall contain such additional conditions as may
 35 be required by that act. The commissioner may, not earlier than two
 36 hundred seventy days prior to the expiration date stated in the permit,
 37 send notice to the permittee that an application for permit renewal
 38 shall be submitted not later than one hundred eighty days prior to the
 39 expiration date stated in the permit. If the permittee submits a
 40 sufficient application for renewal within such time, the permit shall be
 41 continued in accordance with subsection (b) of section 4-182. If the
 42 permittee does not submit a sufficient application for renewal within
 43 such time, the permit shall expire unless the commissioner extends the
 44 permit pursuant to section 22a-6j.

45 Sec. 3. Subsection (a) of section 22a-6a of the general statutes is
 46 repealed and the following is substituted in lieu thereof (*Effective*
 47 *October 1, 2005*):

48 (a) Any person who knowingly or negligently violates any

49 provision of section 14-100b or 14-164c, subdivision (3) of subsection
 50 (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5, 22a-6 or 22a-
 51 7, chapter 440, chapter 441, [section 22a-69 or 22a-74,] subsection (b) of
 52 section 22a-134p, section 22a-162, 22a-171, 22a-174, 22a-175, 22a-177,
 53 22a-178, 22a-181, 22a-183, 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209,
 54 22a-213, 22a-220, 22a-225, 22a-231, 22a-336, 22a-342, 22a-345, 22a-346,
 55 22a-347, 22a-349a, 22a-358, 22a-359, 22a-361, 22a-362, 22a-365 to 22a-
 56 379, inclusive, 22a-401 to 22a-411, inclusive, 22a-416, 22a-417, 22a-424
 57 to 22a-433, inclusive, 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-
 58 458, 22a-461, 22a-462 or 22a-471, or any regulation, order or permit
 59 adopted or issued thereunder by the Commissioner of Environmental
 60 Protection shall be liable to the state for the reasonable costs and
 61 expenses of the state in detecting, investigating, controlling and
 62 abating such violation. Such person shall also be liable to the state for
 63 the reasonable costs and expenses of the state in restoring the air,
 64 waters, lands and other natural resources of the state, including plant,
 65 wild animal and aquatic life to their former condition insofar as
 66 practicable and reasonable, or, if restoration is not practicable or
 67 reasonable, for any damage, temporary or permanent, caused by such
 68 violation to the air, waters, lands or other natural resources of the state,
 69 including plant, wild animal and aquatic life and to the public trust
 70 therein. Institution of a suit to recover for such damage, costs and
 71 expenses shall not preclude the application of any other remedies.

72 Sec. 4. Subdivision (2) of subsection (a) of section 22a-6b of the
 73 general statutes is repealed and the following is substituted in lieu
 74 thereof (*Effective October 1, 2005*):

75 (2) For deposit, placement, removal, disposal, discharge or emission
 76 of any material or substance or electromagnetic radiation or the
 77 causing of, engaging in or maintaining of any condition or activity in
 78 violation of any provision of section 14-100b or 14-164c, subdivision (3)
 79 of subsection (b) of section 15-121, section 15-171, 15-172, 15-175, 22a-5,
 80 22a-6, 22a-7, 22a-32, 22a-39 or 22a-42a, 22a-45a, chapter 441, sections
 81 22a-134 to 22a-134d, inclusive, [section 22a-69 or 22a-74,] subsection (b)

82 of section 22a-134p, section 22a-162, 22a-171, 22a-174, 22a-175, 22a-177,
 83 22a-178, 22a-181, 22a-183, 22a-184, 22a-190, 22a-208, 22a-208a, 22a-209,
 84 22a-213, 22a-220, 22a-336, 22a-342, 22a-345, 22a-346, 22a-347, 22a-349a,
 85 22a-354p, 22a-358, 22a-359, 22a-361, 22a-362, 22a-368, 22a-401 to 22a-
 86 405, inclusive, 22a-411, 22a-416, 22a-417, 22a-424 to 22a-433, inclusive,
 87 22a-447, 22a-449, 22a-450, 22a-451, 22a-454, 22a-458, 22a-461, 22a-462 or
 88 22a-471, or any regulation, order or permit adopted thereunder by the
 89 commissioner, and for other violations of similar character as set forth
 90 in such schedule or schedules, no more than twenty-five thousand
 91 dollars for said violation for each day during which such violation
 92 continues.

93 Sec. 5. Section 22a-69 of the general statutes is repealed and the
 94 following is substituted in lieu thereof (*Effective October 1, 2005*):

95 [(a)] The commissioner may [develop, adopt, maintain and enforce a
 96 comprehensive state-wide program of noise regulation which] provide
 97 technical assistance to any local government in the form of a model
 98 noise control ordinance that may include, but need not be limited to
 99 the following: (1) Controls on environmental noise through the
 100 regulation and restriction of the use and operation of any stationary
 101 noise source; (2) ambient noise standards for stationary noise sources
 102 [which in the commissioner's judgment] that are major sources of noise
 103 when measured from beyond the property line of such source and
 104 such standards shall be feasible and requisite to protect the public
 105 health, safety and welfare; such standards may include, but need not
 106 be limited to, adoption by reference of standards or regulations
 107 adopted by the administrator of the United States Environmental
 108 Protection Agency pursuant to the Noise Control Act of 1972 (P.L. 92-
 109 574) or any amendment thereto; (3) [consultation with state and local
 110 governmental agencies when such agencies adopt and enforce codes,
 111 standards and regulations dealing with noise insulation and abatement
 112 for any occupancy or class of occupancy; (4)] controls on airport and
 113 aircraft noise to the extent not preempted by federal law. [; nor shall
 114 the state preempt power of local governments, in their capacity as

115 proprietors of airports or under police powers.]

116 [(b) (1) Any regulation promulgated pursuant to this chapter shall
117 be adopted pursuant to chapter 54 and shall be one which, in the
118 judgment of the commissioner, is requisite to protect the public health,
119 safety and welfare, taking into account the magnitude and conditions
120 of use or operation of the stationary noise source involved, alone or in
121 combination with other such sources, the degree of noise reduction
122 achievable through the application of the best available and practical
123 technology, taking into consideration technology which may be
124 available at the time the regulation becomes effective.

125 (2) Regulations promulgated pursuant to the authority of this
126 chapter may be applicable throughout the state or to such parts or
127 regions thereof specifically designated in such regulations.

128 (3) The commissioner shall adopt regulations providing for the
129 granting of individual variances from the provisions of this chapter,
130 whenever it is found, upon presentation by the petitioner of adequate
131 proof, that compliance with any provision of this chapter, any
132 regulation promulgated under it or an order of the commissioner
133 would impose an arbitrary or unreasonable hardship.]

134 Sec. 6. Section 22a-72 of the general statutes is repealed and the
135 following is substituted in lieu thereof (*Effective October 1, 2005*):

136 (a) State agencies shall, to the fullest extent consistent with their
137 authorities under state law administered by them, carry out the
138 programs within their control in such a manner as to further the policy
139 stated in section 22a-67.

140 [(b) State agencies shall cooperate with the commissioner in a state
141 program of noise regulation developed and maintained under this
142 chapter.]

143 (b) The commissioner may provide technical assistance to other
144 state agencies in the administration of the programs within their

145 control.

146 (c) Each department, agency or instrumentality of the executive,
147 legislative and judicial branches of the government of this state, (1)
148 having jurisdiction over any property or facility, or (2) engaged in any
149 activity resulting, or which may result in the emission of noise, shall
150 comply with federal, [and] state and local requirements respecting
151 control and abatement of environmental noise.

152 (d) Each state agency shall consult with the commissioner in
153 prescribing standards or regulations respecting noise. If at any time the
154 commissioner has reason to believe that a standard or regulation or
155 any proposed standard or regulation, of any agency respecting noise
156 does not protect the public health and welfare to the extent he believes
157 to be required and feasible, he may request such agency to review and
158 report to him on the advisability of revising such standard or
159 regulation to provide such protection. Such agency shall complete the
160 requested review and report to the commissioner within such time as
161 the commissioner specifies, but such time specified may not be less
162 than forty-five days from the date the request was made.

163 Sec. 7. Section 22a-73 of the general statutes is repealed and the
164 following is substituted in lieu thereof (*Effective October 1, 2005*):

165 (a) To carry out and effectuate the purposes and policies of this
166 chapter it is the public policy of the state to encourage [municipal
167 participation by means of regulation of] local government to control
168 and regulate activities causing noise pollution within the territorial
169 limits of the various [municipalities] local governments. To that end,
170 any [municipality] local government may develop and establish a
171 comprehensive program of noise regulation. Such program may
172 include a study of the noise problems resulting from uses and activities
173 within its jurisdiction and its development and adoption of a noise
174 control ordinance.

175 (b) Any municipality may adopt, amend and enforce a noise control

176 ordinance which may include the following: (1) Noise levels which
 177 will not be exceeded in specified zones or other designated areas; (2)
 178 designation of a noise control officer and the designation of an existing
 179 board or commission, or the establishment of a new board or
 180 commission to direct such program; (3) implementation procedures of
 181 such program and the relation of such program to other plans within
 182 the jurisdiction of the [municipality] local government; (4) procedures
 183 for assuring compliance with [state and federal] all applicable noise
 184 regulations; (5) noise level restrictions applicable to construction
 185 activities, including limitation on on-site hours of operation.

186 [(c) No ordinance shall be effective until such ordinance has been
 187 approved by the commissioner. No ordinance shall be approved
 188 unless it is in conformity with any state noise control plan, including]

189 (c) A noise control ordinance of a local government shall be
 190 consistent with, or more stringent than, ambient noise standards [
 191 adopted pursuant to section 22a-69 or any standards] or regulations
 192 adopted by the administrator of the United States Environmental
 193 Protection Agency pursuant to the Noise Control Act of 1972 (P.L. 92-
 194 574) or any amendment thereto. [Notwithstanding the provisions of
 195 this subsection, any municipality may adopt more stringent noise
 196 standards than those adopted by the commissioner, provided such
 197 standards are approved by the commissioner.]

198 Sec. 8. Section 22a-403 of the general statutes is repealed and the
 199 following is substituted in lieu thereof (*Effective October 1, 2005*):

200 (a) Before any person constructs, alters, rebuilds, substantially
 201 repairs, adds to, replaces or removes any [such structure] dam, dike,
 202 reservoir or similar structure, such person shall apply to the
 203 commissioner for a permit to undertake such work. The application for
 204 such permit shall be in triplicate, the original of which, with necessary
 205 drawings, plans, specifications and other data, shall be submitted to
 206 the commissioner, in the form and to the extent required by him. If the
 207 commissioner finds that an application is complete, he shall (1) notify

208 the applicant by certified mail, return receipt requested, of his intent to
209 grant a permit with or without terms and conditions or to deny a
210 permit for such work, and (2) publish notice of such intention in a
211 newspaper having a general circulation in the area in which the
212 proposed work will take place or have effect. The commissioner shall
213 mail notice of such intent to the chief executive officer, the inland
214 wetland agency, and the planning, zoning and conservation
215 commissions of each town in which the work will take place or have
216 effect. The commissioner may hold a hearing prior to approving or
217 denying any application if, in his discretion, the public interest will be
218 best served thereby, and he shall hold a hearing if, within thirty days
219 after such notice has been published, he receives a petition requesting
220 such a hearing signed by at least twenty-five persons. Notice of such
221 hearing shall be published at least thirty days before the hearing in a
222 newspaper having a general circulation in the area in which the work
223 will take place or have effect.

224 (b) The commissioner or his representative, engineer or consultant
225 shall determine the impact of the construction work on the
226 environment, on the safety of persons and property and on the inland
227 wetlands and watercourses of the state in accordance with the
228 provisions of sections 22a-36 to 22a-45, inclusive, and shall further
229 determine the need for a fishway in accordance with the provisions of
230 section 26-136, and shall examine the documents and inspect the site,
231 and, upon approval thereof, the commissioner shall issue a permit
232 authorizing the proposed construction work under such conditions as
233 the commissioner may direct. The commissioner shall send a copy of
234 the permit to the town clerk in any municipality in which the structure
235 is located or any municipality which will be affected by the structure.
236 An applicant for a permit issued under this section to alter, rebuild,
237 repair or remove an existing dam shall not be required to obtain a
238 permit under sections 22a-36 to 22a-45a, inclusive, or section 22a-342 or
239 22a-368. An applicant for a permit issued under this section to
240 construct a new dam shall not be required to obtain a permit under
241 sections 22a-36 to 22a-45a, inclusive, for such construction.

242 (c) Notwithstanding the provisions of this section, the commissioner
 243 may construct, alter, rebuild, substantially repair, add to, replace or
 244 remove any dam, dike, reservoir or other similar structure, with their
 245 appurtenances, that are owned by the state and that are under the
 246 commissioner's control without issuance of a permit pursuant to this
 247 chapter, and without a permit, certification or approval pursuant to
 248 chapter 439 Part I, or chapters 440, 446i and 476a, provided the
 249 commissioner gives due regard to the impact that such activities have
 250 on the wetlands of the state, the tidal, coastal or navigable waters of
 251 the state, navigation, recreation, erosion, sedimentation, water quality
 252 and circulation, fisheries, shellfisheries, wildlife, flooding, other
 253 natural disasters and water-dependent use opportunities, as defined in
 254 section 22a-93, and the public safety with regard to structures that
 255 may, by breaking away, cause loss of life or property damage. Nothing
 256 in this subsection shall preclude an action under section 22a-16.

257 Sec. 9. Subsection (l) of section 1-79 of the general statutes is
 258 repealed and the following is substituted in lieu thereof (*Effective*
 259 *October 1, 2005*):

260 (l) "Quasi-public agency" means the Connecticut Development
 261 Authority, Connecticut Innovations, Incorporated, Connecticut Health
 262 and Education Facilities Authority, Connecticut Higher Education
 263 Supplemental Loan Authority, Connecticut Housing Finance
 264 Authority, Connecticut Housing Authority, Connecticut Resources
 265 Recovery Authority, [Connecticut Hazardous Waste Management
 266 Service,] Lower Fairfield County Convention Center Authority, Capital
 267 City Economic Development Authority and Connecticut Lottery
 268 Corporation.

269 Sec. 10. Subdivision (1) of section 1-120 of the general statutes is
 270 repealed and the following is substituted in lieu thereof (*Effective*
 271 *October 1, 2005*):

272 (1) "Quasi-public agency" means the Connecticut Development
 273 Authority, Connecticut Innovations, Incorporated, Connecticut Health

274 and Educational Facilities Authority, Connecticut Higher Education
275 Supplemental Loan Authority, Connecticut Housing Finance
276 Authority, Connecticut Housing Authority, Connecticut Resources
277 Recovery Authority, [Connecticut Hazardous Waste Management
278 Service,] Capital City Economic Development Authority and
279 Connecticut Lottery Corporation.

280 Sec. 11. Subsections (b) and (c) of section 16-50j of the general
281 statutes are repealed and the following is substituted in lieu thereof
282 (*Effective October 1, 2005*):

283 (b) Except for proceedings under chapter 445, this subsection and
284 subsection (c) of this section and sections 22a-134cc [.] and 22a-134ff
285 [and 22a-163 to 22a-163u, inclusive,] the council shall consist of: (1) The
286 Commissioner of Environmental Protection, or his designee; (2) the
287 chairman, or his designee, of the Public Utilities Control Authority; (3)
288 one designee of the speaker of the House and one designee of the
289 president pro tempore of the Senate; and (4) five members of the
290 public, to be appointed by the Governor, at least two of whom shall be
291 experienced in the field of ecology, and not more than one of whom
292 shall have affiliation, past or present, with any utility or governmental
293 utility regulatory agency, or with any person owning, operating,
294 controlling, or presently contracting with respect to a facility, a
295 hazardous waste facility as defined in section 22a-115, a regional low-
296 level radioactive waste facility as defined in section 22a-163a or ash
297 residue disposal area.

298 (c) For proceedings under chapter 445, subsection (b) of this section,
299 this subsection and sections 22a-134cc [.] and 22a-134ff [and 22a-163 to
300 22a-163u, inclusive,] the council shall consist of (1) the Commissioners
301 of Public Health and Public Safety or their designated representatives;
302 (2) the designees of the speaker of the House of Representatives and
303 the president pro tempore of the Senate as provided in subsection (b)
304 of this section; (3) the five members of the public as provided in
305 subsection (b) of this section; and (4) four ad hoc members, three of

306 whom shall be electors from the municipality in which the proposed
 307 facility is to be located and one of whom shall be an elector from a
 308 neighboring municipality likely to be most affected by the proposed
 309 facility. The municipality most affected by the proposed facility shall
 310 be determined by the permanent members of the council. If any one of
 311 the five members of the public or of the designees of the speaker of the
 312 House of Representatives or the president pro tempore of the Senate
 313 resides [(1)] (A) in the municipality in which a hazardous waste facility
 314 is proposed to be located for a proceeding concerning a hazardous
 315 waste facility or in which a low-level radioactive waste facility is
 316 proposed to be located for a proceeding concerning a low-level
 317 radioactive waste facility, or [(2)] (B) in the neighboring municipality
 318 likely to be most affected by the proposed facility, the appointing
 319 authority shall appoint a substitute member for the proceedings on
 320 such proposal. If any appointee is unable to perform his duties on the
 321 council due to illness, or has a substantial financial or employment
 322 interest which is in conflict with the proper discharge of his duties
 323 under this chapter, the appointing authority shall appoint a substitute
 324 member for proceedings on such proposal. An appointee shall report
 325 any substantial financial or employment interest which might conflict
 326 with the proper discharge of his duties under this chapter to the
 327 appointing authority who shall determine if such conflict exists. If any
 328 state agency is the applicant, an appointee shall not be deemed to have
 329 a substantial employment conflict of interest because of employment
 330 with the state unless such appointee is directly employed by the state
 331 agency making the application. Ad hoc members shall be appointed by
 332 the chief elected official of the municipality they represent and shall
 333 continue their membership until the council issues a letter of
 334 completion of the development and management plan to the applicant.

335 Sec. 12. Sections 22a-70, 22a-71, 22a-74, 22a-75, 22a-134aa to 22a-
 336 134oo, inclusive, 22a-163 to 22a-163aa, inclusive, 22a-164 and 22a-165
 337 to 22a-165h, inclusive, of the general statutes are repealed. (*Effective*
 338 *October 1, 2005*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	22a-178(g)
Sec. 2	<i>October 1, 2005</i>	22a-174(k)(3)
Sec. 3	<i>October 1, 2005</i>	22a-6a(a)
Sec. 4	<i>October 1, 2005</i>	22a-6b(a)(2)
Sec. 5	<i>October 1, 2005</i>	22a-69
Sec. 6	<i>October 1, 2005</i>	22a-72
Sec. 7	<i>October 1, 2005</i>	22a-73
Sec. 8	<i>October 1, 2005</i>	22a-403
Sec. 9	<i>October 1, 2005</i>	1-79(l)
Sec. 10	<i>October 1, 2005</i>	1-120(1)
Sec. 11	<i>October 1, 2005</i>	16-50j(b) and (c)
Sec. 12	<i>October 1, 2005</i>	22a-70, 22a-71, 22a-74, 22a-75, 22a-134aa to 22a-134oo 22a-163 to 22a-163aa 22a-164 and 22a-165 to 22a-165h repealed

Statement of Purpose:

To revise the filing process for environmental compliance orders on land records to require the Commissioner of Environmental Protection, rather than the subject of order, to cause the filing of the order and the notification regarding compliance with the order on the subject land records; to revise the commissioner's general permit authority for a stationary air pollution source to allow an existing general permit to continue upon a permittee's submission of a timely and sufficient renewal application to the commissioner; to disinvest the Department of Environmental Protection from the noise pollution control program and allow local government to assume this responsibility; to eliminate the need for the commissioner to obtain a permit for activities relating to state owned dams or similar structures, provided the commissioner gives due consideration to environmental and safety concerns, and to discontinue the existence of the Connecticut Hazards Waste Management Service.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]